

**UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND**

GARRETT WHALEN,

Plaintiff,

v.

CITY OF WOONSOCKET, BY AND  
THROUGH ITS TREASURER, THOMAS M.  
BRUCE, III; JOHN H. DOUGLAS,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS A POLICE OFFICER  
EMPLOYED BY THE CITY OF  
WOONSOCKET; JOHN DOE,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS A POLICE OFFICER  
EMPLOYED BY THE CITY OF  
WOONSOCKET; AND RON ROE,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS A POLICE OFFICER  
EMPLOYED BY THE CITY OF  
WOONSOCKET,

Defendants.

Civil Action No.

**CA 10 - 205**<sup>S</sup>

**JOINT NOTICE OF REMOVAL**

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND:**

**PLEASE TAKE NOTICE** that Defendants City of Woonsocket, by and through its treasurer, Thomas M. Bruce, III and John H. Douglas, individually and in his official capacity as a police officer employed by the City of Woonsocket ("Defendants") hereby file this Joint Notice of Removal of the above-captioned action from the Superior Court of Rhode Island, County of Providence, Civil Action No. 10-2179, pursuant to 28 U.S.C. §§1331, 1367, 1441 and 1446, on the basis of the facts set forth below.

1. Upon information and belief, on or around April 16, 2010 Garret Whalen, resident of Woonsocket, Rhode Island, filed a Complaint against multiple Defendants in the Superior Court of the Rhode Island, Providence County, Civil Action No. 10-2179. (Copies of all process, pleadings and orders served on the defendants are attached hereto as Exhibit A.)

2. Defendants City of Woonsocket, by and through its treasurer, Thomas M. Bruce, III and John H. Douglas, individually and in his official capacity as a police officer employed by the City of Woonsocket were served with their respective Summons and Complaint on April 16, 2010. Therefore, this Joint Notice of Removal is properly filed within 30 days after service of the Summons and Complaint upon Defendants. Upon information and belief, no other known named parties have been properly served with a summons and complaint in this matter.<sup>1</sup>

3. Plaintiff's complaint alleges that on or about September 22, 2009, plaintiff was assaulted and illegally searched and seized in violation of his constitutional rights after allegedly being handcuffed to a hospital bed and "struck in the face" by the defendants. (See Complaint at ¶¶13, 14, 22-26.) Plaintiff pleads for relief under the following counts: Negligence (Count One); Assault (Count Two); Battery (Count Three); Unreasonable Search and Seizure – Article I, §6 of the Rhode Island Constitution (Count Four); and Unreasonable Search and Seizure – 42 U.S.C. §1983. (See Complaint at ¶¶ 22-26.)

4. This action is a civil action over which this Court has original jurisdiction under 28 U.S.C. §1331, and is one which may be removed to this Court by the defendants pursuant to the provisions of 28 U.S.C. §1441(b) in that plaintiff's claim for relief under 28 U.S.C. § 1983

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<sup>1</sup> Defendant Ron Roe, individually and in his official capacity as a police officer employed by the City of Woonsocket was served on April 16, 2010 through delivery of a copy of the summons and complaint to the City of Woonsocket Police Department. However, John Doe defendants are not required to join in the removal notice. See Green v. America Online, 318 F.3d 465, 270 (3d Cir. 2003) see also Gorman v. Abbott Laboratories, 629 F.Supp. 1196, 1200 (D.R.I. 1986) (exception to rule of unanimity among all defendants substantively entitled to removal exists for nominal or formal parties).

arises under federal law and supports federal question jurisdiction. See Bell v. Hood, 327 U.S. 678, 682-83 (1946).

5. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over plaintiff's remaining claims as they form part of the same case or controversy as plaintiff's 28 U.S.C. § 1983 claim. See Cardillo v. Cardillo, 360 F.Supp.2d 402, 414 (D.R.I. 2005) citing 28 U.S.C. § 1367. Specifically, each of plaintiff's claims derive from a common nucleus of operative facts; the September 22, 2009 incident whereby plaintiff alleges he was handcuffed to a hospital bed and "struck in the face" by the defendants.

6. This Notice of Removal is being filed in the United States District Court for the District of Rhode Island, the District Court of the United States for the district and division within which the state court action is pending, as required by 28 U.S.C. §§1446(a) and 1441(a).

7. Pursuant to 28 U.S.C. §1446(d), written notice of the filing of this Joint Notice of Removal will be sent to Plaintiff's counsel, and a copy of the Joint Notice of Removal will be filed with the Clerk of the Superior Court of Providence, Rhode Island, in the form attached hereto as Exhibit B.

8. By removing this action to this Court, Defendants do not waive any defenses, objections or motions available to them under state or federal law. Defendants expressly reserve the right to move for dismissal of Plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure.

9. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a).

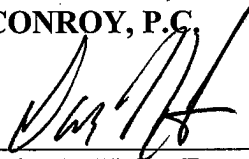
**WHEREFORE**, Defendants City of Woonsocket, by and through its treasurer, Thomas M. Bruce, III and John H. Douglas, individually and in his official capacity as a police officer employed by the City of Woonsocket respectfully request that this action be duly removed to this Court, and that it proceed herein.

Dated: May 5, 2010

**CITY OF WOONSOCKET, BY AND  
THROUGH ITS TREASURER, THOMAS M.  
BRUCE, III AND JOHN H. DOUGLAS,  
INDIVIDUALLY AND IN HIS OFFICIAL  
CAPACITY AS A POLICE OFFICER  
EMPLOYED BY THE CITY OF  
WOONSOCKET**

By their attorneys,

**CAMPBELL, CAMPBELL, EDWARDS &  
CONROY, P.C.**



Brian P. Voke, Esq. (#4953)

Dana K. Etre, Esq. (#7947)

**CAMPBELL CAMPBELL EDWARDS &  
CONROY, P.C.**

One Richmond Square, Suite 127C

Providence, RI 02906

bvoke@campbell-trial-lawyers.com

detre@campbell-trial-lawyers.com

**CERTIFICATION**

I hereby certify that on May 5, 2010, a copy of the foregoing document was filed by hand at the United States District Court, District of Rhode Island, and served by first class mail, postage prepaid, on the following parties:

V. Edward Formisano  
Sinapi, Formisano & Co., Ltd.  
100 Midway Place, Suite 1  
Cranston, RI 02920

A handwritten signature in black ink, appearing to read 'Dana K. Etre', is written above a horizontal line.

Dana K. Etre